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Franklin Financial Corporation

8
9 UNITED STATES DISTRICT COURT
10 FOR THE DISTRICT OF NEVADA

11 KIMBERLY RUPE and JOHN D. RUPE,
12 Plaintiffs,

13 vs.

14 FIRST FRANKLIN FINANCIAL
CORPORATION; U.S. BANK, N.A.; HOME
15 LOAN SERVICES, INC.; BANK OF
AMERICA, N.A.; BANK OF AMERICA
16 HOME LOANS; BAC HOME LOANS
SERVICING, L.P.; CAL -WESTERN
17 RECONVEYANCE CORP.; and MORTGAGE
ELECTRONIC REGISTRATION SYSTEMS,

18 Defendants.

Case: 2:11-cv-00166-GMN-RJJ

**BAC HOME LOANS SERVICING,
L.P. AND FIRST FRANKLIN
FINANCIAL CORP.'S FIRST
MOTION FOR EXTENSION OF
TIME TO RESPOND**

19 Defendants, BAC Home Loans Servicing, L.P. ("BAC") and First Franklin Financial
20 Corporation ("First Franklin") (collectively, "Defendants") by and through their attorneys, Lewis
21 and Roca LLP, and pursuant to LR 6-1 and 7-2, move the Court for an extension of time in which
22 to file an answer or other responsive pleading to **March 15, 2011**.

23 Good cause exists for the present extension request. Plaintiffs served all Defendants
24 through certified mail (Dkt. # 4), which constitutes improper service under F.R.C.P. 4.
25 Seemingly, Plaintiffs relied on N.R.C.P. 5 to effectuate service by mail (Dkt. # 4, page 1),
26 however, N.R.C.P. 5 relates to service of pleadings other than the initial complaint. Since
27 Plaintiffs did not serve their initial complaint and summons by personal service, service was
28

1 improper. N.R.C.P. 4.(d). As such, counsel was only recently notified of this lawsuit¹ This is the
2 first time Defendants have requested an extension of time in this case.

3 Defendants attempted to resolve this matter without Court intervention. On February 28,
4 2011, counsel for Defendants, Meng Zhong, Esq. contacted Plaintiffs by phone to seek an
5 extension of time in order to respond. Plaintiffs indicated they would not grant such an extension
6 and will seek default judgment.

7 Unfortunately, Defendants are now required to seek the Court's intervention due to the fact
8 that Plaintiffs refuse to agree to stipulate to an extension. Therefore, Defendants respectfully
9 request that the Court extend the date by which Defendants must file a responsive pleading to
10 **March 15, 2011.**

11 DATED this 1st day of March, 2011.

12 LEWIS AND ROCA LLP

13
14 By /s/ Meng Zhong

15 J. CHRISTOPHER JORGENSEN, ESQ.
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19 Attorneys for Defendants

20 **IT IS SO ORDERED:**

21 
22 ~~U.S. DISTRICT COURT JUDGE~~ MAGISTRATE JUDGE
23 DATED: MARCH 2, 2011

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¹ It is likely that Defendants will be filing a motion to strike or dismiss based in improper service.